

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE GUARDIANSHIP OF ANDREA O'NEILL, AN ADULT.

GLORIA M. O'NEILL,
Petitioner/Appellant,

v.

GERMAN URREGO,
Respondent/Appellee.

No. 2 CA-CV 2019-0176
Filed June 16, 2020

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. GC20190189
The Honorable Kenneth Lee, Judge

AFFIRMED

COUNSEL

Gloria M. O'Neill, Gallup, New Mexico
In Propria Persona

German Urrego, Oro Valley
In Propria Persona

Rubin & Bernstein PLLC, Tucson
By Leigh Bernstein
Counsel for Andrea O'Neill

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MEMORANDUM DECISION

Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Eppich and Judge Espinosa concurred.

ECKERSTROM, Judge:

¶1 Gloria O'Neill appeals from the trial court's appointment of her estranged son, German Urrego, as guardian of her incapacitated adult daughter (Urrego's sister), Andrea. "To obtain reversal of a guardianship order, the appellant must show that the trial court abused its discretion in ruling as it did." *In re Guardianship of Kelly*, 184 Ariz. 514, 518 (App. 1996). Because O'Neill has failed to make such a showing, we affirm.

Factual and Procedural Background

¶2 In April 2019, O'Neill filed a petition for appointment of a guardian for Andrea, proposing herself as guardian. Urrego objected, requesting that he instead be appointed Andrea's guardian. Andrea herself also objected to O'Neill's appointment as her guardian, through her court-appointed attorney. In August 2019, after a hearing at which both O'Neill and Urrego argued and presented evidence and Andrea expressed her desire to live with her brother, the trial court concluded it was in Andrea's best interest for Urrego to be appointed her guardian and did so.¹ See A.R.S. §§ 14-5303, 14-5304. This appeal followed. We have jurisdiction pursuant to A.R.S. § 12-2101(A)(9).²

¹ It was undisputed that Andrea is incapacitated and needs a guardian appointed.

² The trial court's August 2019 order was not appealable initially because it did not contain the finality language required by Rule 54(c), Ariz. R. Civ. P. We therefore suspended the appeal and revested jurisdiction in the trial court to enter an order compliant with Rule 54(c). See *In re Guardianship of Sommer*, 241 Ariz. 308, ¶¶ 25-27 (App. 2016); Ariz. R. Prob. P. 4(a)(1). The trial court did so, and we vacated the stay and reinstated the appeal on May 29, 2020.

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Discussion

¶3 O'Neill is not represented by counsel in this appeal. Nevertheless, she is "given the same consideration on appeal as one who has been represented by counsel," and she "is held to the same familiarity with court procedures and the same notice of . . . rules . . . as is expected of a lawyer." *Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999).

¶4 O'Neill's opening brief does not comply with our procedural rules. See Ariz. R. Civ. App. P. 13(a) (requirements for opening briefs). Most importantly, it fails to provide an argument containing her "contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which [she] relies." Ariz. R. Civ. App. P. 13(a)(7)(A). In particular, although O'Neill appears to challenge certain evidentiary rulings by the trial court, she has failed to develop any legal argument or cite any legal authority in support of her claims. We therefore deem any claims she might have raised waived. See *Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) ("Opening briefs must present and address significant arguments, supported by authority that set forth the appellant's position on the issue in question."); see also *Boswell v. Fintelmann*, 242 Ariz. 52, n.3 (App. 2017) (claims not supported by legal argument waived).

¶5 O'Neill also appears to challenge certain factual findings made by the trial court, including that Urrego is financially stable and that Andrea credibly expressed her desire to remain in his care. Even if O'Neill had not waived these claims by failing to support them with legal argument, we have no basis for second-guessing the fact and credibility determinations of the trial court. See *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 12 (App. 2002) (appellate court does not re-weigh evidence and defers to fact-finder's assessment of witness credibility).³

¶6 Finally, O'Neill has failed to provide this court with a transcript of the hearing that resulted in the order she now challenges. See Ariz. R. Civ. App. P. 11(c)(1)(B) ("If the appellant will contend on appeal that a judgment, finding or conclusion, is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record transcripts of all proceedings containing evidence relevant to that

³O'Neill also contends the trial court "disregarded [her] emotional pain, psychological trauma and opinion." These are not cognizable claims on appeal.

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judgment, finding or conclusion.”). In the absence of a transcript, we presume that whatever transpired at the hearing supported the trial court’s findings. *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995). In view of that presumption, we cannot say the court abused its discretion by appointing Urrego Andrea’s guardian.

Disposition

¶7 We affirm the order of the trial court.